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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------|-----------------------------|------------------|
| 10/670,143 | 09/24/2003 | Michiel Peter Oderwald | Vereenigde P59US | 9163 |
| 7590 | 10/12/2005 | | | |
| VARNUM, RIDDERING, SCHMIDT & HOWLETT LLP Bridgewater Place Post Office Box 352 Grand Rapids, MI 49501-0352 | | | EXAMINER KOVACS, ARPAD F | |
| | | | ART UNIT 3671 | PAPER NUMBER |

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---------------------------------|---------------------------------|--|
| Office Action Summary | Application No. 10/670,143 | Applicant(s) ODERWALD ET AL. | |
| | Examiner Árpád Fábián Kovács | Art Unit 3671 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.
- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification

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definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."

- (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR

1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).

- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

Headings are required as outlined above.

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

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Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Netherland on 9/24/2002. It is noted, however, that applicant has not filed a certified copy of the 1021521 application as required by 35 U.S.C. 119(b).

Claim Objections

3. Claim 12 is objected to because of the following informalities: it appears that the claim is an apparatus claim, should not perhaps be dependent from claim 13, the method claim. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 10, 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by D'Arrigo (3221640).

D'Arrigo discloses:

New independent claims 15-16 (note: claim 16 only functionally claims the gripping together of the fingers & the closing mechanism):

Machine comprising a supply mechanism & receiving mechanism for plant stems (col. 2, ln 35-40), the improvement of the receiving mechanism includes:

A mechanical gripper including a pair of mechanical fingers (28 & 37) movably mounted (see pivoting about ref 32 & 101) in an open position & closed position (fig 1, 6, col. 5, ln 30-31);

The fingers are separated by band (47, col. 3, ln 56, col. 4, ln 3-4, noted that bands, ties, wire etc... disclosed to be used, but in the rejection the band is considered, not the wire) and being tensioned between the fingers as shown in the open position fig 1;

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The fingers causing the band to encircle the stems, when the finger is moved closed position as shown in fig 6, the band (note: not the wire embodiment used), the band inherently wraps around the stems;

Opening & closing mechanism (96);

New dependent claim 10:

Duplication of parts, i.e. the fingers (28 & 28').

6. Claims 10-11 & 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Fantz et al (5921063).

Fantz discloses:

New independent claims 15-16 (note: claim 16 only functionally claims the gripping together of the fingers & the closing mechanism):

The flexible band as defined in col. 2, ln 3-12, where the polymer is considered flexible;

The receiving mechanism having two gripping fingers / arms (30, 32) that wraps the flexible around the stems (col. 7, ln 64-67);

New dependent claim 10:

Duplication of parts, i.e. the fingers (ref 1);

New dependent claim 11:

Meshing gear wheels (59a, b).

7. Claims 10 & 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Burns (4480536).

New independent claims 15-16 (note: claim 16 only functionally claims the gripping together of the fingers & the closing mechanism):

The flexible band (14);

The receiving mechanism having two gripping fingers / arms (13) that wraps the flexible around the stems (fig 2);

New dependent claim 10:

Duplication of parts, i.e. the fingers (ref 13).

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8. Claims 10 & 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Wynn et al (5588278).

New independent claims 15-16 (note: claim 16 only functionally claims the gripping together of the fingers & the closing mechanism):

The flexible band (B);

The receiving mechanism having two gripping fingers / arms (F2, F4) that wraps the flexible around the stems;

New dependent claim 10:

Duplication of parts, i.e. the fingers (F1, F3).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-8, 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anguiano (4095391), in view of Heckel (2891365) and Lewis (4601155) and Givin (3563002) and Parry et al (4470241).

Anguiano discloses the rollers (104, 96), a flexible band (38), gripper fingers (34), wherein the band is tensioned between the fingers (fig 1, when stems are loaded on it), also shows plurality of fingers (fig 1);

However, does not disclose as claimed the gearwheels movable mechanical fingers, upholder, spring tensioner of the band.

Heckel discloses plant stem buncher that includes an upholder (19), arms/fingers (43), canvas/band tensioner (52), fingers wrap the band around the stems (56).

Lewis discloses gear mechanism (84, 90) to pivot the fingers (32).

Givin discloses gear mechanism (106, 104) to pivot the fingers (90, 91).

Parry discloses the use of spring (54) biasing the band (34).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fingers of Anguiano with the teachings of Heckel & Lewis & Givin & Parry, in order to make the fingers movable & band biased, while the fingers are movable by a gear mechanism or by other means in order to compress the stems into tight bundle and enclosed by the band (Heckel, col. 1, ln 20-25).

As applied to claim(s) 12-14, 18-19 in view of the structure disclosed/taught by Anguiano as modified by Heckel & Lewis & Givin & Parry, the method of operating/using the device would have been obvious since it is the normal and logical manner in which the device is used.

Response to Arguments

11. Applicant's arguments with respect to claims 1-8, 10-19 have been considered but are moot in view of the new ground(s) of rejection.

Amending the claims to include among others the mechanical fingers and addition of new claims required further search and examination as shown above in greater detail.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fantz et al ('099, '257), Crabb, Jr, Peterson et al., Caveney et al., Magnuson et al, Tonus, Romine.

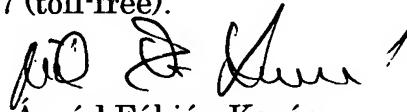
13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábíán Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Árpád Fábíán Kovács
Primary Examiner
Art Unit 3671

ÁFK